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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/736,678

12/13/2000

Siva Subramanian

7000-047

7990

27820 7590 04/21/2010  
WITHROW & TERRANOVA, P.L.L.C.  
100 REGENCY FOREST DRIVE  
SUITE 160  
CARY, NC 27518

EXAMINER

GOLD, AVI M

ART UNIT

PAPER NUMBER

2457

MAIL DATE

DELIVERY MODE

04/21/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/736,678	SUBRAMANIAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	AVI GOLD	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This action is responsive to the RCE amendment filed on November 18, 2009.  
The RCE is in response to a board decision in which the examiner was affirmed in part.  
Claims 1-50 are pending.

### ***Response to Amendment***

#### ***Terminal Disclaimer***

1. The terminal disclaimer filed on November 18, 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,970,943 has been reviewed and is NOT accepted.
2. The assignee has not established its ownership interest in the application, in order to support the terminal disclaimer. There is no submission in the record establishing the ownership interest by either (a) providing documentary evidence of a chain of title from the original inventor(s) to the assignee and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11, or (b) specifying (by reel and frame number) where such documentary evidence is recorded in the Office (37 CFR 3.73(b)).

### ***Double Patenting***

3. Claims 1-50 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 6,970,943.

Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications are directed to methods and routing nodes for routing traffic requiring application level support and distributed processing among routing nodes capable of providing such application level support.

### ***Response to Arguments***

4. The terminal disclaimer filed on November 18, 2009 has been disapproved. The double patenting rejection that the BPAI affirmed, on September 24, 2009, remains. The 103 rejections the BPAI reversed have been removed.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,167,033 to Bryant et al.

U.S. Pat. No. 6,424,621 to Ramaswamy et al.

U.S. Pat. No. 6,286,052 to McCloghrie et al.

U.S. Pat. No. 6,078,953 to Vaid et al.

U.S. Pat. No. 6,044,075 to LeBoudec et al.

U.S. Pat. No. 5,495,426 to Waclawsky et al.

U.S. Pat. No. 5,854,899 to Callon et al.

U.S. Pat. No. 6,289,389 to Kikinis.

U.S. Pat. No. 6,151,633 to Hurst et al.

U.S. Pat. No. 5,377,327 to Jain et al.

U.S. Pat. No. 6,226,267 to Spinney et al.

U.S. Pat. No. 6,570,867 to Robinson et al.

U.S. Pat. No. 6,792,461 to Hericourt

U.S. Pat. No. 5,845,091 to Dunne et al.

U.S. Pat. No. 6,611,872 to McCanne et al.

U.S. Pat. No. 6,868,061 to Kilkki et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVI GOLD whose telephone number is (571)272-4002. The examiner can normally be reached on M-F 8:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AVI GOLD/  
Examiner, Art Unit 2457

/ARIO ETIENNE/  
Supervisory Patent Examiner, Art Unit 2457